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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

1477

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on 04/27/2007

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Application Number

09/909,445

Filed

07/19/2001

First Named Inventor

Fred S. Cook

Art Unit

3629

Examiner

Tan D. Nguyen

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

/Kyle J. Way/

Signature

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

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04/27/2007

Date

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☒ *Total of 1 forms are submitted.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Fred S. Cook

Confirmation No.: 9653

Application No.: 09/909,445

Group No.: 3629

Filed: 07/19/2001

Examiner: Dean Tan Nguyen

For: METHOD FOR PROVIDING COMMUNICATION SERVICES

Mailstop: AF

Commissioner for Patents

P. O. Box 1450

Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Introductory Comments

In response to the advisory action dated March 27, 2006 (hereinafter “the advisory action”), the Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. A Notice of Appeal under 37 C.F.R. § 41.31(a)(1) is being filed herewith. The review is requested for the reasons provided in the following remarks.

Remarks

Claims 1, 2 and 4-11 remain pending and currently stand rejected under 35 U.S.C. § 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as being obvious over, U.S. Patent No. 5,915,214 to Reece et al. (hereinafter “Reece”). (Page 3 of the final Office action of November 2, 2006, hereinafter “the final Office action.”) The Applicant respectfully disagrees, and believes such allegations represents clear error in establishing a *prima facie* rejection under 35 U.S.C. § 103.

Independent method claim 1 is provided below, with emphasis supplied:

1. A method for providing communication services, the method comprising:
 - (a) *at a retail business, providing a wireless transceiver device to a customer of the retail business*, wherein the wireless transceiver device is configured to receive at least one of a plurality of different communication services and provide the at least one of the plurality of different communication services to the customer of the retail business;
 - (b) *receiving in at least one location of the retail business, the plurality of different communication services from a network system*;
 - (c) in response to providing the wireless transceiver device to the customer of the retail business, *receiving in the at least one location of the retail business a request from the wireless transceiver device for the at least one of the plurality of different communication services*; and
 - (d) *at the at least one location of the retail business, processing the request for the at least one of the plurality of different communication services*; and
 - (e) *in response to processing the request, providing the at least one of the plurality of different communication services from the at least one location of the retail business to the wireless transceiver device over a wireless network*.

Generally, Reece discloses a Central Processing Facility (CPF) 10 (see Fig. 1) that “serves as an information depot and switching facility so that incoming calls to the individual mobile devices on the system may be switched through to those devices, regardless of the particular wireless service providers being used by those devices.” (Column 5, lines 32-36.) Also, the user of the device may carry on outgoing calls through any of the service providers. (See Fig. 6; and column 13, lines 20-31.) To this end, the CPF 10 transmits information regarding the various service providers by way of *one-way base station transmitters 12* to the communication devices 14. (See Fig. 1; column 5, line 43, to column 6, line 6; and column 6, lines 21-26.) In turn, each of the devices 14 selects a service provider based upon that

information and engages in registration and two-way communications with the selected provider by way of the provider's base transceivers 16 and central control facility 18. (See column 6, lines 44-61.) In addition, the service provider's control facility 18 may communicate with the CPF 10 to obtain additional information on the communication device 14 engaging the service provider for access. (See column 6, line 66, to column 7, line 10.)

As a result, the system of Reece differs from the subject matter of claim 1 in several ways. For example, Reece does not teach or suggest *receiving in the at least one location of the retail business a request from a wireless transceiver device for at least one of a plurality of different communication services*. The advisory action indicates that Reece discloses this provision at column 3, lines 37-42. The Applicant respectfully disagrees. In that passage, Reece indicates that the device may "either automatically or in response to direct user input, select an optimal service provider based on the received information." However, this selection does *not* involve requesting the service *from the CPF*, however, as the device selects the provider and then attempts communication directly with the service provider without the involvement of the CPF, as described above. Further, the device cannot request a communication service from the CPF since Reece indicates that the information transferred from the CPF to the communication devices occurs through the *one-way base station transmitters 12* of Fig. 1, thus *not transferring information from the devices 14 to the CPF 10*. Reece also teaches away from using two-way communication between the CPF 10 and the devices 14 by stating that "[u]se of a one-way transmission system provides the advantage that an unlimited number of users may access the information simultaneously without encountering the capacity problems that plague two-way wireless communications." (Column 3, lines 41-44.)

Also, since Reece does not indicate that the CPF receives a request for such communication services, the CPF cannot *process such a request for the at least one of the communication services*, as provided for in claim 1. The advisory action indicates that Reece teaches this provision at column 4, lines 38-42. The Applicant respectfully disagrees. That particular passage of Reece states that the requests to the CPF are requests *from a service provider for information about a particular device*. Thus, the request processed by the CPF is not for communication service, and does not come from the communication device. Therefore, Reece does not teach or suggest processing the request (from the transceiver device, as noted above) for one of the communication services.

Further, Reece does not teach or suggest *providing the one of the communication services from the retail business to the transceiver device over a wireless network in response to processing the request*, as set forth in claim 1. The advisory action indicates that Reece teaches this subject matter at column 4, lines 10-12 and 38-42, and at column 5, lines 30-35. The Applicant respectfully disagrees. While Reece indicates that the CPF may receive an incoming call that desires to establish two-way communication with one of the communication devices, and may switch the call to one of the wireless service providers, *this switching is performed in response to receiving the incoming call*, not in response to a request or any other action of one of the communication devices receiving the call.

The advisory action also indicates that the CPF inherently or obviously provides communication services to the devices due to the roll of the CPF as a payment and billing agent between users and service providers. The Applicant respectfully disagrees, as being a payment and billing agent is not the same as *receiving communication services from a network system at a retail business, and then providing those services from the retail business to a wireless transceiver device over a wireless network*. A system may keep track of billing and payments by any number of methods without actually providing the communication services involved.

Further, Reece does not teach or suggest *providing at a retail business a wireless transceiver device to a customer of the retail business*, as provided for in claim 1. More specifically, the advisory action indicates that “it’s inherently included or would have been obvious that the device is provided by the CPF since *there is no contract between the user and the service providers.*” The Applicant respectfully disagrees. Reece explicitly indicates that the CPF 10 “includes data processing equipment, telephone switching equipment, and microwave communications equipment.” As a result, Reece does not teach or suggest that the CPF 10 is a *retail business* at which a customer may obtain a wireless transceiver device. Further, Reece indicates that service may be provided to the user “without requiring individual contract agreements between every user and *every service provider.*” (Column 4, lines 9-11.) Thus, Reece does not indicate that the user of the communication device has *no contract* with *any service provider*, just that the user need not have a contract with *every service provider*. Thus, within the environment of Reece, providing a user with a wireless transceiver device at a retail business is neither inherent nor obvious in view of Reece.

Thus, in light of at least the foregoing reasons, the Applicant contends that claim 1 is

allowable in view of Reece, and such indication is respectfully requested.

Further, claims 2 and 4-11 depend from independent claim 1, thus incorporating the provisions of that independent claim. Thus, the Applicant asserts that claims 2 and 4-11 are allowable for at least the reasons provided above in support of claim 1, and such indication is respectfully requested.

Conclusion

Based on the above remarks, the Applicant requests that the rejections of claims 1, 2 and 4-11 be reversed. Additional reasons in support of patentability have been omitted in the interests of clarity and brevity. The Applicant thus respectfully requests allowance of claims 1, 2 and 4-11.

The Applicant hereby authorizes the Office to charge Deposit Account No. 21-0765 the appropriate fee under 37 C.F.R. § 41.20(b)(1) for the Notice of Appeal filed herewith, and the fee under 37 C.F.R. § 1.17(a)(1) for a one-month extension of time. The Applicant believes no additional fees are due with respect to this filing. However, should the Office determine additional fees are necessary, the Office is authorized to charge Deposit Account No. 21-0765 accordingly.

Respectfully submitted,

Date: 04/27/2007

/Kyle J. Way/

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